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PROCEEDINGS

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LEGISLATIVE COUNCIL OF INDIA,

January to December 1858.

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1858.

FORT OF TANJORE.

MR. CURRIE moved that Mr. Forbes be added to the Select Committee on the Bill "for bringing the Fort of Tanjore and the adjacent Territory under the Laws of the Presidency of Fort St. George."

Agreed to.

MEERAS LANDS (BOMBAY).

MR. LEGEYT moved that Mr. Forbes be added to the Select Committee on the Bill "to limit the period within which a Meerasdar may assert his claim to lands which he has abandoned, or for which he may have failed to pay assessment."

Agreed to.

GUARDIANSHIP OF MINORS AND COURT OF WARDS (BENGAL).

MR. CURRIE moved that Mr. Harington be added to the Select Committee on the Bill "for making better provision for the care of the persons and property of Minors, Lunatics, and other disqualified persons in the Presidency of Fort William in Bengal," and the Bill "to explain and amend Regulation X of 1793 and Regulation LIII of 1803."

Agreed to.

The Council adjourned.

Saturday, May 22, 1858.

PRESENT:

The Hon'ble the Chief Justice, *Vice-President*, in the Chair.

Hon. Major Genl. Sir J. Outram,	E. Currie, Esq.,
Hon. H. Ricketts,	H. B. Harington, Esq.,
Hon. B. Peacock,	and
P. W. LeGeyt, Esq.,	H. Forbes, Esq.

AUTHENTICATION OF STAMPS.

THE VICE-PRESIDENT read a Message informing the Legislative Council that the Governor-General had assented to the Bill "to provide for the authentication of Stamped Paper issued from the Stamp Office in Calcutta."

ARMY AND STATE OFFENCES; MUTINY AND DESERTION.

MR. PEACOCK presented the Report of the Select Committee on the Bill "to continue in force for one year Act XIV of 1857 (for the trial and punishment of certain offences relating to the Army, and of offences against the State), and Act XVII of 1857 (for the apprehension and trial of Native Officers and Soldiers for Mutiny and Desertion.")

HEINOUS OFFENCES.

MR. PEACOCK also presented the Report of the Select Committee on the Bill "to continue in force for one year Act XVI of 1857 (for the trial and punishment of heinous offences in certain Districts.)"

MR. PEACOCK moved that the above Report be adopted.

Agreed to.

KURNOOL.

MR. FORBES presented the Report of the Select Committee on the Bill "for bringing the district of Kurnool under the Laws of the Presidency of Fort St. George."

INSTITUTION OF SUITS AND APPEALS (N. W. PROVINCES).

MR. HARINGTON moved the first reading of a Bill "for the relief of persons who, in consequence of the recent disturbances, may have been prevented from instituting or prosecuting suits or appeals in the Courts of the North-Western Provinces within the period allowed by law." He said, he had lately received a communication from the Secretary to the Government of the North-Western Provinces, accompanied by a Report from the Sudder Court at Agra, in which the Court referred to the entire suspension of all business for several months of the past and present years in the great majority of the Civil Courts included within their jurisdiction, consequent on the disturbed state of the country, which rendered it quite impossible for the Judges to continue their sittings, or indeed, at most stations, to remain at their posts without

a certainty of being murdered—a fate which befell no less than four of the Civil or Sessions Judges employed in the districts above Allahabad, while others effected their escape to places of safety with great difficulty. With the return of order and public tranquillity, the Civil Courts in the North-Western Provinces were resuming their sittings; but during the temporary cessation of their labors, the period allowed by law for the institution of original suits and appeals must have run out in a large number of cases; and as it would not be just or proper that the complainants or appellants in the cases which were in this predicament, should suffer in consequence of a contingency which they could not have foreseen, the Court had suggested that an application should be made to the Legislature with a view to such relief being afforded to these persons, by means of a remedial Law, as, in reference to the peculiar circumstances in which they had been so unexpectedly placed, they might be considered fairly entitled to. The Bill, of which he was now about to propose the first reading, had been framed with this object. But, before proceeding to explain its provisions, it seemed proper that he should notice—which he would do as briefly as he could—such parts of the existing Regulations which limited the period for the institution of original suits or appeals as were involved in the present question, that it might be seen why it was that special legislation was necessary at this time. He must first, however, mention that, so far back as the month of December last, the Sudder Court issued a Circular to the Zillah Judges and Principal Sudder Ameens under their orders, in which they gave it as their opinion that in all appeals

"which might be presented in the Zillah Courts after the period allowed by law from decisions passed shortly before the destruction of records and interruption of business, calculation might fairly be made from the date on which the Courts resumed their regular sittings irrespective of the period during which the conduct of public business, cut short by the violence of mutineers or mobs, might have been in abeyance. In other words, that a period during which no regular business was transacted, should not be taken into account at all."

There could be no doubt, he thought,

Mr. Harington

that these instructions were perfectly fair, proper, and reasonable; but they applied to appeals only; and moreover, as respected some classes of appeals, they were found to be at variance with the law as construed and laid down by the Sudder Court in several decisions; and the competency of the Court to issue the orders in question having in consequence been disputed, it was advisable to give their instructions the force of legislative sanction, in order to remove all doubts, and to prevent the legality of any decisions which might have been passed in cases admitted after the period allowed by law, on the authority of the Court's Circular, from being called in question.

And now as to the existing law. Section XIV Regulation III. 1793, which was afterwards extended to Benares and the ceded and conquered Provinces, as a general rule, fixed the period of twelve years, after which a claimant could not enforce his claim by suit. But to this rule, as to most general rules, there were exceptions, one of which allowed of its relaxation in favor of a party who could prove to the satisfaction of the Court that, either from minority or other good and sufficient cause, he was precluded from obtaining redress within the prescribed period. It might be supposed that this exception was exactly what was needed in the existing state of things in the North-Western Provinces, in so far as cases of the nature of those under consideration were concerned, and that the wording of it was sufficiently large to reach every case in which the period limited by law might have expired during the time that the sittings of the Civil Courts were suspended in consequence of the recent disturbances, or when the dangerous state of the roads rendered access to them almost impossible; and as it could scarcely be conceived that any Court would refuse to admit this excuse when pleaded in bar of the operation of the Statute of Limitations, any special legislation to meet such cases might be considered altogether unnecessary. But, according to a ruling of the Sudder Court, there were cases to which the exception which he had quoted was not applicable, and in which the period allowed for their institution could on no account be exceeded, so that, should the claimant

fail to bring his action within the limited period, his right of suit was absolutely gone whatever might have been the cause of the default. Suits brought to contest the summary awards of the Revenue Authorities in Bengal in respect to possessory titles, for the institution of which a period was specially fixed by Act XIII of 1848, were within this category; and suits instituted to try the justice of the decisions of the Collectors and their subordinates in cases relating to arrears and exactions of rent, for the admission of which only one year was allowed, would probably be held to fall within the same stringent rule; and as it seemed only just and proper to make some provision for the admission of suits of both these descriptions in which the period allowed for their institution might have run out during the recent disturbances, the lapse of time notwithstanding, the Council would probably agree with him that any rule which might be passed, instead of being restricted in its application to particular classes of cases, should be made general, in order that the benefit of it might be enjoyed as of right by all who had suffered from the same cause, and that no more than was necessary might be left to the discretion of the Courts.

The state of the law which fixed the different periods for the admission of appeals was somewhat similar to that of the Statute of Limitations in respect to original suits. Section IX Act XXV of 1837 declared that appeals from the orders or decisions of a Principal Sudder Ameen to a Zillah or City Judge, should not be received unless the same were preferred within the period of thirty days from the date of the order or decision appealed against; but the same Section went on to say, "or unless it shall be proved that the appellant was precluded by circumstances beyond his control from presenting his appeal within the period before mentioned;"—and Clause 1 Section V Act XVI of 1853 contained a similar provision in respect to petitions of special appeal which might be presented after the period allowed—that was to say, three months—either in the Sudder Court or in the Court from whose decision the appeal was made. So that, as regarded these two descriptions of appeals—that is, appeals to the Zillah Courts from the decisions of the Principal Sudder Ameens, or special appeals to the Sudder Court from decisions of the Zillah Judges and Principal Sudder Ameens passed in regular appeal—nothing was really required to be done. The case, however, of regular appeals to the Sudder Court from decisions of the Zillah Judges and Principal Sudder Ameens, and of appeals of the same description from decisions of the Sudder Ameens and Moonsiffs, was different; for although Clause 2 Section II Act XV of 1853 empowered the Sudder Court to extend the time fixed by Clause 2 of the same Section for the presentation of regular appeals cognizable by the Court—that was to say, six weeks—upon being satisfied that there was sufficient cause for such extension, it had been ruled by the Court that the application for any enlargement of the time allowed must be made previously to its expiration, upon the ground that a term which had already expired could not be extended;—while, as regarded appeals from the decisions of the Sudder Ameens and Moonsiffs, the Sudder Court at Agra, taking the same view as the Sudder Court at Calcutta, had held that, as the exception contained in Section IX Act XXV of 1837, which he had just quoted, was not to be found in Clause 3 Section II Regulation VII. 1832, which fixed the time within which regular appeals from the decisions of the Sudder Ameens and Moonsiffs must be preferred at thirty days, and Clause 4 of the same Section required that such period should be strictly adhered to, notwithstanding the intervention of Hindoo or Mahomedan holidays or the established vacations within the prescribed period, no discretion was left to the Courts, and they had no alternative but to reject the appeal if presented after time, the only exception being when, the period of appeal having expired during an adjournment of the Court on account of any holiday or vacation, the petition of appeal was presented on the re-opening of the Court. But the suspension of business in the Civil Courts during the recent disturbances, or their inaccessibility by reason of the dangerous state of the roads, though attended with precisely the same consequences, could not, strictly speaking, be considered to fall within this exception. Some provision

was therefore necessary to authorize the admission of appeals of these last two descriptions, in which the appellants might have been unable to lodge their petitions of appeal, or to apply for an extension of time within the period allowed by law owing to the operation of the causes mentioned; and the reason which rendered it desirable that any new rule which might be passed in regard to original suits in consequence of late events should be of a general nature, would appear to be equally applicable to appeals.

But there was another class of cases, the parties interested in which, though not referred to by the Sudder Court in their Report to Government, would seem to be no less entitled to relief than the persons already mentioned. He alluded to original suits and appeals instituted before the commencement of the insurrection, but which, by reason thereof, could not afterwards be prosecuted. Act XXIX of 1841, which applied to appeals as well as original suits, enacted that, if a plaintiff or appellant shall at any time neglect to proceed in his suit or appeal for six weeks, the suit or appeal shall be dismissed as of course without previous notice to the plaintiff or appellant, and without any proceeding on the part of the Court, or of the defendant, or otherwise, or assignment of any reasons, unless the plaintiff or appellant upon special application shall have previously satisfied the Court of the propriety of allowing further time.

But this rule being found to operate with inconvenient severity as regarded appeals dismissed on default, which, if the rule were properly applied, could not be revived, Act XVI of 1845 was passed to enable the Court which dismissed the appeal to re-admit the same if the appellant should make application for that purpose on the stamp prescribed for miscellaneous petitions within three months after the appeal might have been dismissed by the Sudder Court, and within one month after the appeal might have been dismissed, if dismissed by any other Court; and should satisfy the Court that the dismissal was occasioned by the default of his Vakeel, or by unavoidable accident. He need scarcely say that the time here fixed for the submission of an application for the revival of an appeal, must render the law inoperative, or at least of no use as regarded the great majority of appellants whose appeals, without any fault or wilful neglect on their part, might have incurred the penalty of dismissal without a hearing, for want of prosecution when prosecution was impossible. The Act, moreover, did not apply at all to original suits dismissed on default; and as it would be exceedingly hard to compel the plaintiffs in such cases to institute fresh actions on stamp paper of the full value, which was their only remedy in the existing state of the law, it had appeared to him that it would be only just and proper to make a general provision for the relief of all persons who might have been prevented from prosecuting their suits or appeals within the time allowed by law owing to the late disturbances.

From what he had now stated, the provisions of the Bill which he was anxious to introduce would, he thought, in a great measure be gathered; and it would be sufficient for him to remark that it proposed to empower the Civil Courts in the North-Western Provinces to admit or again bring on the file all original suits and appeals, which the complainants or appellants might have been prevented from instituting or prosecuting within the period allowed by law in consequence of the late disturbances, on proof of that fact, provided that the suit or appeal, according as the case might be, was instituted upon stamp paper of the prescribed value, or, in cases in which the penalty of dismissal on default might have been incurred, the application for the re-admission of the suit or appeal on the file was presented within the period of three months from the date on which the Chief Civil Court of original jurisdiction in the district might notify by proclamation that the Courts of the districts had resumed their sittings.

The Bill also proposed to legalize all proceedings held, as well as decisions passed in any original suits or appeals which might have been admitted after the prescribed period, or again brought on the file without authority of law on the strength of the Sudder Court's Circular, or otherwise, by any Civil Court in the North-Western Provinces whose sittings might have been tem-

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porarily suspended or interrupted during the time to which the Bill related.

With these observations, he had the honor to move that the Bill, of which he had given notice on Saturday last, might now be read a first time.

The Bill was read a first time.

REMOVAL OF PRISONERS.

MR. CURRIE moved the second reading of the Bill "to make further provisions for the removal of Prisoners."

THE CHIEF JUSTICE said, before putting the question, he wished to observe that the Bill seemed to break in upon a principle which those who had dealt with the question of punishment in this country had always regarded as important—he meant, the principle on which the Natives of this country should be subjected to transportation. It had been assumed—he dared say, with reason—that the Natives of this country, particularly Hindoos, whose caste suffered by a sea-voyage, had a peculiar dread of transportation, and that it was therefore inexpedient to inflict that punishment except for life, lest the return of convicts from transportation might diminish the wholesome terror of it which existed amongst their countrymen. He believed that those who were conversant with the administration of Justice in the Mofussil, and some of those to whom the task of legislation had been chiefly committed, had rather quarrelled with the practice of the Crown Courts, which had always been in the habit of subjecting to transportation for terms Natives and Europeans alike. It seemed to him that if the principle to which he referred did exist, and was worth preserving, the Bill before the Council very much broke in upon it, and that it did so in an objectionable manner. It enabled the Lieutenant-Governor to send across seas, not only those who were under sentence of imprisonment for life, but also those who were under sentence of imprisonment for three years or upwards. It was obvious that, by sending prisoners of the latter class across the sea to the Straits of Malacca, and allowing them to return, as they would be at liberty to return, when the term of their imprisonment expired, Government would run the risk, which it had been deemed so desirable to avoid, of diminishing the terror which the Natives were supposed to have for transportation. If, again, that feeling, however irrational and founded on prejudice of caste, was really operative in the minds of Natives, the Council would, by this Bill, give to the Executive Government the power of greatly aggravating the punishment to which prisoners had been sentenced by the Courts. Therefore, it might be well worthy of the consideration of the Select Committee to whom this Bill might be referred, whether the necessities of the times, or the circumstances which had suggested this measure, were such as to require so great an extension of the power of removing term-prisoners from one place of confinement to another as would enable the Lieutenant-Governor to send term-prisoners across the sea.

MR. CURRIE said, he was perfectly aware of the objection mentioned by the Honorable and learned Chief Justice to the principle of sending beyond seas prisoners sentenced only for a term of years. It did not escape his consideration at the time when he framed the Bill. It was urged in the Report of the framers of the Penal Code, as a reason why, in adjusting the punishments under the Code, they did not provide for transportation for a term of years. But the reason of the proposal of this measure was a great State necessity. It was believed to be absolutely necessary for the security of the country to invest the Executive Government with the power of removing beyond the limits of any particular Presidency certain classes of dangerous criminals.

With respect to the grounds of the objection to transporting only for terms of years, it might be observed that the Supreme Court had always been in the habit of transporting for terms of years; so that the superstitious dread which transportation beyond seas was supposed to inspire, had been to a considerable extent done away with, and was becoming less and less every year.

However, the defence of the measure was that it was a necessary one. He hoped, therefore, that the Council would permit the Bill to be read a second time. The Select Committee to whom it might be referred could enquire further into the question raised, and report to the Council whether, in their apprehension, the exigency was such as to

require that a measure of this kind should be passed.

MR. PEACOCK said, as an ordinary rule, he apprehended that a measure like this would not be introduced, but it had been found that the Alipore Jail was so crowded with desperate characters that it was dangerous to keep them there, and the Lieutenant-Governor had applied for permission to remove beyond sea prisoners sentenced in Bengal to more than three years' imprisonment. The Government of India had assented to the proposal, and had sanctioned the transfer of such prisoners to the Straits of Malacca. The Honorable Court of Directors, in their Despatch dated the 26th of January 1858, said:—

"Under the pressing emergency of the case, we entirely approve of the measure. Should it be necessary, you will consider the expediency of legalizing it."

The recital in the Preamble of the Bill shewed that it was necessary to legalize the measure, because at present the Executive Government had no power to remove prisoners beyond the limits of the Presidency. No doubt, under ordinary circumstances, it would be much better to avoid infringing the principle of not transporting prisoners for a less period than for life; but he thought that the emergency which had arisen rendered it necessary that that principle should not be adhered to, at any rate during the present time.

MR. LEGEYT said, he had long been of opinion that the Law which limited the transportation of prisoners in the Mofussil to transportation for life, was inappropriate. The place to which the prisoners were transported was always the Straits of Malacca. He felt sure that sentences of transportation are, to Natives of this country, very wholesome and effective restraints against crime. He had seen transportation for terms of years in force in the Presidency Town of Bombay for various offences, and he did not think that the punishment, because it was for a term of years, and the convict might return back to India, was really less effective or less dreaded. It was perhaps going too far to extend the power of transportation to the cases of prisoners now under sentence of imprisonment for so short a term as three years. He would suggest that it should be limited to the cases of prisoners sentenced to imprisonment for more than five years; but he considered the principle of the Bill a good one, and should vote for the second reading.

THE CHIEF JUSTICE said, he did not in the least wish to interfere with the second reading of the Bill. All he had meant to do was to point out that the Bill infringed a principle to which he himself did not attach the same importance which others did. He was rather in favor of transportation for a term of years.

The Motion was then put and carried, and the Bill read a second time.

ARMY AND STATE OFFENCES; HEINOUS OFFENCES; MUTINY AND DESERTION.

MR. PEACOCK moved that the Council resolve itself into a Committee on the Bill "to continue in force for one year Act XIV of 1857 (for the trial and punishment of certain offences relating to the Army, and of offences against the State), and Act XVII of 1857 (for the apprehension and trial of Native Officers and Soldiers for Mutiny and Desertion);" and that the Committee be instructed to consider the Bill in the amended form in which the Select Committee had recommended it to be passed.

Agreed to.

Section I was passed as it stood.

MR. PEACOCK moved the insertion of a new Section after Section I. He said, in consequence of the difficulty of enforcing sentences of imprisonment, and the danger of over-crowding the Jails in the districts to which the Acts in question had been extended, and which, it must be remarked, were the most disturbed, he considered that it would be advisable to entrust the Officers by whom sentences of imprisonment should be passed for terms exceeding three years, with the power of ordering the offenders to be transported for such terms. The Judicial Commissioner of Oude had suggested that sentences of transportation for finite terms might be passed upon deserters and other persons tried under the special Acts. The suggestion had received the approval of the Chief Commissioner of Oude, who considered that the adoption of the principle in that province was very desirable. The question had been referred to the

Governor-General. He (Mr. Peacock) had not yet learnt what opinion the Governor-General had expressed upon the subject; but it appeared to him that it was not desirable to over-crowd the Jails in those districts, and that, therefore, in every case in which a sentence of imprisonment should be passed under the special Acts for any term exceeding three years, the Judge or other Officer passing the sentence should have the power of ordering the prisoner to be transported beyond sea for such term. He thought, however that the exercise of this power should be subject to the general control of the Governor-General in Council. Under the Bill which had been read a second time to-day, an order of Government would be necessary for the removal of prisoners sentenced to imprisonment; but he thought it very desirable that the Judge or other Officer who passed the sentence of imprisonment, and who would have a knowledge of the capabilities of the Jail and the circumstances of the district, should also have the power of ordering at the same time that the offender should be transported beyond sea. He, therefore, moved the following new Section:—

"Unless the Governor-General in Council shall otherwise order, whenever any Court or other Officer shall sentence an offender under any of the said Acts to imprisonment for a term exceeding three years, it shall be lawful for such Court or other Officer at the same time to order that the offender be transported beyond sea for such term."

He had adopted the principle of Act XIV of 1844, by which it was enacted that, whenever prisoners were sentenced to terms of imprisonment for life, the Sudder Courts should order them to be transported beyond seas. The only difference was that, in the present case, he left it discretionary with the Judge either to order transportation or not. The Section he proposed would enable the Judge or other Officer who sentenced prisoners to terms of imprisonment exceeding three years without any special authority from Government, to order them to be transported beyond seas; but if the Governor-General in Council should think fit to issue a general order to the contrary, the ordinary rule would take effect. It should be borne in mind that this was only a temporary measure, and that it would not come into force except in those districts to which the Acts in question might be extended. He thought that in those districts it was very advisable to entrust some such power to the Officers exercising jurisdiction under the Acts, subject to the general control which he proposed to give to the Governor-General in Council.

The Section was agreed to.

The Preamble and Title were passed after amendments.

The Council having resumed its sitting, the Bill was reported.

MR. PEACOCK moved the third reading of the Bill.

The Motion was carried, and the Bill read a third time.

MR. PEACOCK moved that Mr. Ricketts be requested to take the Bill to the President in Council in order that it might be submitted to the Governor-General for his assent.

Agreed to.

INSOLVENT DEBTORS (MOFUSSIL).

MR. LEGEYT said, he had received a communication from the Government of Bombay on the subject of a Law for the relief of Insolvent Debtors in the Mofussil. The Government of Bombay had desired him to inform them whether it was in the contemplation of the Legislature to deal with that most important question. The immediate cause of the reference was a Letter from Mr. Davidson, the Magistrate of Poona, and a very intelligent Officer, in which that gentleman strongly recommended a measure of the kind being introduced, stating that the local Superintendent of Police attributed the Gang-robberies which had been committed during the latter part of 1857 in the Hill districts of the Zillah, in a great measure to the extreme poverty and indebtedness of the Ramoosee and Bheel ryots, and the hardships and tyranny which they underwent at the hands of money-lenders, to whom they were bound hand and foot. Mr. Davidson said that, after enquiry, he was satisfied that this was the main cause of the late disturbances in his Magistracy. In short, it appeared to him (Mr. LeGeyt) that the case was very much what had occurred three years ago in the Sonthal districts. Mr. Davidson was of opinion that a Law for

the relief of Insolvent debtors should be enacted

"for the whole country, which would afford the unfortunate and even the improvident an outlet of escape, so that a man might have a chance of making a fresh start without a millstone round his neck for his personal success and elevation in life, not only recovering himself and family from hopeless recklessness and slavery, to his own personal benefit, but to the public benefit of the Government and the country."

He (Mr. LeGeyt) found that this was by no means a new subject before the Government of India. It appeared first to have gone before the Government in the year 1845, when, after considerable discussion, references were made to Bombay and Madras, and to the Authorities here as to the advisability of a Law on the subject. The majority of the answers were decidedly in favor of the proposed Law. In Madras alone it appeared to have been thought unadvisable. He had had access to the papers in the Home Office; and he found that, after the receipt of the opinions from Madras in 1852, the discussion was dropped. It was mentioned in the List of the Projects of Law pending before the Government of India on the 20th of May 1854, with the following remarks:—

"No Act for this purpose has yet been drafted.

"The question originated in a reference from the Madras Government in connection with the Military Courts of Requests constituted under Act 3 and 4 Vic. c. 37, and Act XI of 1841, respectively. The enquiries made as to the practice of those Courts, where there might be more than one judgment-creditor against the same defendant, with insufficiency of assets to meet the claims of all, were afterwards extended to the practice of the Civil Courts, generally, of the East India Company in similar cases. Some difference of practice appears to prevail in the Military Courts of Requests in dealing with such cases.

"The Civil Courts have their own rules, but there is no provision for the protection of creditors who have not obtained judgments upon which they can proceed.

"The subject is one of much difficulty and importance."

The subject was one of great importance, and, he admitted, of some difficulty. The only Sections in the proposed Code of Civil Procedure bearing on it were taken almost word for word from the Bombay Regulation IV. 1827. No relief could be given under them except where all the property of the debtor had been attached and sold, and the debtor himself was in prison at the suit of a creditor—and the effect was to relieve him only from imprisonment, at the instance of that particular creditor. The Government of Bombay evidently did not consider that these provisions afforded a sufficient measure of relief. After the discussion which was upon record, and the difference of opinion which appeared in the papers he had read, he had not presumed to come before the Council with a Bill on the subject; but he thought that the question might with great advantage be referred to a Select Committee, who might be instructed to report whether legislation was advisable or not. He thought it would hardly do to attempt to introduce an Insolvent Act into the Code of Civil Procedure; and he, therefore, now moved that the subject of a Law for the relief of Insolvent Debtors in the Mofussil be referred to a Select Committee consisting of Mr. Peacock, Mr. Currie, Mr. Harington, Mr. Forbes, and the Mover, with instructions to report whether any legislation was advisable.

MR. CURRIE said, he would suggest that the better course would be to refer the communication to the Select Committee on the Procedure Bills. In the Civil Procedure Code as prepared by the Commissioners in England, there was a provision to the effect that any person in confinement under a decree who was not entitled to the benefit of any Act for the relief of Insolvent or bankrupt debtors in India, might procure his enlargement by making an application to the Judge to that effect, and surrendering all his property. The Select Committee had not finally amended the Code; but, in going over it, they struck out the reference to an Insolvent Act, and appeared to consider that sufficient provision was made for Insolvent debtors in the following Sections of the Code. As, however, the Code was still before the Select Committee, they might re-consider the question with advertence to the papers which the Honorable Member for Bombay had now laid before the Council; and probably it would be more convenient to consider it in connexion with the provisions of the Code rather than as a separate measure.

MR. LEGEYT said, he had no objec-

tion whatever to refer the Bill to the Select Committee on the Civil Procedure Code; but, as he had stated before, it had struck him that the present subject hardly came within the scope of that Code. The suggestion made by the Bombay Government was, in effect, that an Insolvent debtor in the Mofussil should obtain relief from his debts without being taken to jail and having all his property sold under a decree in the first instance. In short, it was a suggestion that the provisions of the Insolvent Act should be extended to the Inhabitants of the Mofussil. Whether the Select Committee on the Civil Procedure Code would be disposed to consider a question so very much wider than that contained in the Code as prepared by the Commissioners in England, he did not know. The Honorable and learned Chairman of the Committee would probably inform the Council. His own idea was that they would not; and as it was expedient to consider whether such a Law as had been recommended should be passed or not, he had moved for a separate Committee. If, however, the Select Committee on the Civil Procedure Code would consider the subject of a general Insolvent Law for the Mofussil in connexion with the Code, he had no objection to amend his Motion and refer it to them.

MR. PEACOCK said, the question was hardly one of procedure at all. It was a question of extending the Insolvent Act over the whole of the territories of the East India Company. There was a separate Code of Civil Procedure for each Presidency; and although, as a matter of convenience, the Select Committees on all three met together, he did not think it advisable that the subject now brought before the Council should be referred to any one of them in particular. He thought it would be better if it were considered as a separate measure.

MR. LEGEYT'S Motion was then put and agreed to.

REMOVAL OF PRISONERS.

MR. CURRIE moved that the Bill "to make further provision for the removal of Prisoners" be referred to a Select Committee consisting of the Vice-President, Mr. Peacock, Mr. LeGeyt, and the Mover.

Agreed to.

ESTATE OF THE LATE NABOB OF THE CARNATIC.

MR. PEACOCK moved that Mr. Forbes be added to the Select Committee on the Bill "to provide for the administration of the estate and for the payment of the debts of the late Nabob of the Carnatic."

Agreed to.

The Council adjourned.

Saturday, May 29, 1858.

PRESENT:

The Hon'ble the Chief Justice, *Vice-President*, in the Chair.

Hon. J. P. Grant,	P. W. LeGeyt, Esq.
Hon. Major Genl. Sir Jas. Outram,	E. Currie, Esq.
Hon. H. Ricketts,	H. B. Harington, Esq. and
Hon. B. Peacock,	H. Forbes, Esq.

ESTATE OF THE LATE NABOB OF THE CARNATIC.

THE CLERK brought under the consideration of the Council a Petition of certain Creditors of the Estate of the late Nabob of the Carnatic praying for an amendment of Section XV of the Bill "to provide for the administration of the Estate and for the payment of the debts of the late Nabob of the Carnatic."

MR. PEACOCK moved that the above Petition be referred to the Select Committee on the Bill.

Agreed to.

CONTINUANCE OF CERTAIN PRIVILEGES TO THE FAMILY &c. OF THE LATE NABOB OF THE CARNATIC.

MR. FORBES moved the first reading of a Bill "to continue certain privileges and immunities to the Family and retainers of the late Nabob of the Carnatic." In doing so, he said the Council was aware that it had always been the practice and policy of the British Government in India to confer upon Native Princes, their families, and retainers, freedom from the jurisdiction of its Criminal and Civil Courts. Among